

FILED UNDER SEAL

January 22, 2016

The Honorable Valerie E. Caproni
United States District Court
Southern District of New York
40 Foley Square, Room 240
New York, NY 10007
CaproniNYSDCChambers@nysd.uscourts.gov

Re: *United States v. Sheldon Silver*, 15-cr-00093-VEC (S.D.N.Y.)

Dear Judge Caproni:

I represent an individual [REDACTED] and the subject of a motion *in limine* currently under seal by Your Honor. In light of my client's interest in the Court's decision as to whether the motion should remain under seal now that the trial has concluded, I submit this letter motion and request that it be filed under seal. For the reasons described below, I respectfully request that the motion and related materials remain under permanent seal.

As one of the individuals identified in the motion *in limine* – *to wit*, [REDACTED] referred to in the Government's motion of October 12, 2015 – my client's privacy interests substantially outweigh the value of the public's access to these materials. Furthermore, any proposed redactions would not adequately protect my client's privacy interests even if her identify was concealed, [REDACTED]

[REDACTED] The Court should therefore order that the motion *in limine*, along with any briefs and transcripts regarding the motion, remain under seal.

While the public has a presumption of access to judicial documents such as a motion *in limine*, this presumption "is far from absolute." *United States v. Rajaratnam*, 708 F. Supp. 2d 371, 377 (S.D.N.Y. 2010). The presumption of access can be rebutted by "specific, on-the-record findings that higher values necessitate a narrowly tailored sealing." *Lugosch v. Pyramid*

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Co. of Onodaga, 435 F.3d 110, 126 (2d Cir. 2006).

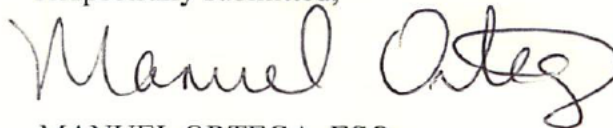
My client, as one of the two individuals identified in the motion, has a clear interest in keeping lurid and baseless allegations from the public eye. “[T]he privacy interests of innocent third parties . . . that may be harmed by disclosure . . . should weigh heavily in a court’s balancing equation in determining what portions of motion papers should remain sealed or should be redacted.” *Matter of N.Y. Times Co.*, 828 F.2d 110, 116 (2d Cir. 1987). The analysis applies to, and can justify, permanent sealing of materials post-trial as well. *See United States v. Starr*, No. 10 Cr. 520, 2011 WL 1796340, at *2 (S.D.N.Y. May 2, 2011).

Even if the papers were redacted, there would still be a substantial risk that my client’s identity would be revealed and will be the subject of gossip in the local press. [REDACTED]

[REDACTED] The motion, even in redacted form as proposed by the Government, is replete with clues that would easily allow identification of my client as the relevant individual. [REDACTED]

For the foregoing reasons, I respectfully request that the motion *in limine* and any related materials, including briefs and transcripts, remain under permanent seal.

Respectfully submitted,



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